

GARY C. SHERRER
PATRICK B. JONES III
D. LEWIS TERRY, JR.

ATTORNEYS AT LAW
335 WEST MAIN STREET
DOTHAN, ALABAMA 36301
(334) 678-0100

FACSIMILE
(334) 678-0900

REPLY TO:
POST OFFICE BOX 805
DOTHAN, ALABAMA 36302

EMAIL:
gary@sjt-law.com

April 24, 2007

via facsimile to 792-3931 and U.S. mail

Mr. Richard H. Ramsey, IV, Esq.
Post Office Box 6595
Dothan, Alabama 36302

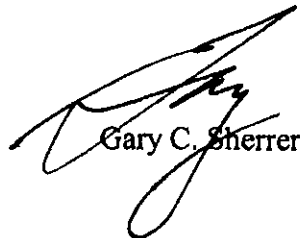
Re: Insufficient Service of Process
Mary Jones and Joseph Alford v. Houston County Sheriff's Department, et al.
Civil Action No.: 1:06-CV-585-WHA
SJ&T File No.: 06-036

Dear Rick:

This letter confirms our telephone conference of April 24, 2007 wherein we discussed my position that the service of process upon John Sigler is insufficient service of process on Thomas Flathmann. It is my understanding that you will talk to Michael Guy Holton about my position and get back with me. Enclosed for your information is a copy of the Motion to Quash Service of Process and Motion to Dismiss, which I have prepared but will not file until you tell me that it is necessary to do so.

Thank you for your consideration.

Very truly yours,



Gary C. Sherrer

GCS/dje

c: Kendrick E. Webb, Esq.
Michael Guy Holton, Esq.



**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION**

MARY JONES and JOSEPH ALFORD,

Plaintiffs,

v.

**THOMAS FLATHMANN, individually and
in his official capacity as a Houston County
Sheriff's Deputy,**

Defendant.

CIVIL ACTION NO: 1:06-CV-585-WHA

**MOTION TO QUASH INSUFFICIENT SERVICE OF PROCESS
AND MOTION TO DISMISS**

COMES NOW, THOMAS FLATHMANN, in the above-styled cause, and moves this Honorable Court to quash the attempted service of process in this case and to dismiss this case with regard to the defendant named within plaintiffs' complaint and in support thereof states as follows:

1. That the service of process on the above-named defendant was insufficient, improper and invalid and as a result this court by law does not currently have proper jurisdiction over said defendant.

2. That Plaintiffs' purported service of process upon Thomas Flathmann, individually and in his official capacity as a former Houston County Sheriff's Deputy was not served upon Thomas

Flathmann by delivery to him personally, the summons and complaint were not left at Thomas Flathmann's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein nor was the summons and complaint delivered to an agent authorized by appointment or by law to receive service of process. Service upon Thomas Flathmann, was attempted by serving the summons and complaint upon John Sigler, who was not authorized in any manner to receive service of process on behalf of Thomas Flathmann.

3. Plaintiffs' complaint fails to state a claim upon which relief can be granted against said defendant.

4. That this court lacks jurisdiction over the defendant.

5. That this cause should be dismissed on the basis of the insufficiency of the service of process as demonstrated by the Defendant Thomas Flathmann herein.

WHEREFORE, Defendant Thomas Flathmann respectfully requests this Court to dismiss this case or in the alternative, quash the insufficient service of process.

Dated this 24th day of April, 2007.

Respectfully submitted,

s/Gary C. Sherrer

GARY C. SHERRER

Bar Number: SHE016

Attorney for Houston County Sheriff

OF COUNSEL

Sherrer, Jones & Terry, P.C.

335 West Main Street

Dothan, Alabama 36301

Phone: (334) 678-0100

Fax: (334) 678-0900

E-mail: gary@sjt-law.com

CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2007, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Michael Guy Holton, Atty.
Fuller, Taylor, & Holton, P.C.
5748 Carmichael Parkway, Suite D
Montgomery, Alabama 36117-2020

Richard H. Ramsey, IV, Atty.
Post Office Box 6595
Dothan, Alabama 36302

s/Gary C. Sherrer
OF COUNSEL